

SERGIO MORIN ROCHA §
v. § CIVIL ACTION NO. 6:08cv18
TONIA BROWN, ET AL. §

The Plaintiff Sergio Rocha, proceeding *pro se*, filed this civil rights lawsuit under 42 U.S.C. §1983 complaining of alleged violations of his constitutional rights. This Court ordered that the case be referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges.

Rocha complained of incidents occurring at the Coffield Unit of TDCJ, beginning in August of 2006. On April 28, 2008, the Magistrate Judge issued orders directing that Rocha file an amended complaint setting out his claims with more factual specificity, and to pay an initial partial filing fee of \$6.23, pursuant to 28 U.S.C. §1915(b). Copies of these orders were sent to Rocha at his last known address, but no response was ever received.

On August 4, 2008, the Magistrate Judge issued a Report recommending that the lawsuit be dismissed without prejudice for failure to prosecute or to obey an order of the Court. The Magistrate Judge also recommended that the statute of limitations be suspended for a period of 60 days from the date of entry of final judgment in the case. A copy of this order was sent to Rocha at his last known address, return receipt requested, but no objections have been received; accordingly, Rocha is barred from *de novo* review by the district judge of those findings, conclusions and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-

to factual findings and legal conclusions accepted and adopted by the district court. Douglass v. United Services Automobile Association, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

The Court has reviewed the pleadings in this cause as well as the Report of the Magistrate Judge. Upon such review, the Court has concluded that the Report of the Magistrate Judge is correct. It is accordingly

ORDERED that the Report of the Magistrate Judge is ADOPTED as the opinion of the District Court. It is further

ORDERED that the above-styled civil action be and hereby is DISMISSED without prejudice for failure to prosecute or to obey an order of the Court. Rule 41(b), Fed. R. Civ. P. It is further

ORDERED that the statute of limitations on the Plaintiff's claims in this lawsuit be and hereby is SUSPENDED from the date of filing of this lawsuit until sixty (60) days following the date of entry of final judgment in this case. See Mills v. Criminal District Court No. 3, 837 F.2d 677 (5th Cir. 1988); Rodriguez v. Holmes, 963 F.2d 799 (5th Cir. 1992). Finally, it is hereby

ORDERED that any and all motions which may be pending in this action are hereby DENIED.

So ORDERED and SIGNED this 3rd day of September, 2008.

A handwritten signature in black ink, appearing to read 'Leonard Davis', written over a horizontal line.

**LEONARD DAVIS
UNITED STATES DISTRICT JUDGE**